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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,844	03/28/2001	Rainer Nolvak	36791.00000	1566
27171	7590	03/31/2005		
MILBANK, TWEED, HADLEY & MCCLOY LLP 1 CHASE MANHATTAN PLAZA NEW YORK, NY 10005-1413				
			EXAMINER MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	09/819,844	NOLVAK ET AL.	
	Examiner	Art Unit	
	Robert W. Morgan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/27/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. In the Preliminary Amendment filed 5/7/02 the following has occurred: Claims 1 and 8 have been amended and claims 9-17 have been added. Now claims 1-17 are presented for examination.

Information Disclosure Statement

2. The information disclosure filed 11/27/02 has been acknowledge and entered in the application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,409,661 to Murphy in view of U.S. Patent No. 6,073,046 to Patel et al.

As per claim 1, Murphy teaches a method for remotely monitoring the health of a patient, said method comprising:

--the claimed using a remotely located data collection device, prompting a remotely located user to place a plurality of electrodes connected to said data collection device in predetermined locations on the patient's body is met by the diagnostic apparatus comprising a plurality of medical sensors including a ECG sensor array or electrodes (1, Fig. 1), a blood pressure sensor and pulse rate (3, Fig. 1), and one or more other sensors such as a temperature

sensor (2, Fig. 1) and a capnometer (4, Fig. 1) (see: column 4, lines 41-45). In addition, Murphy teaches a plurality of electrodes need to be carefully and accurately attachment to specific location of the body (see: column 8, lines 30-32); and

--the claimed causing said data collection device to read electrical data from the patient's body using said electrodes is met by the external application control that interfaces with the software modules of the diagnostic apparatus and causes data to be display and stored on a PC (4, Fig. 1) by pressing a key (see: column 8, lines 34-59);

Murphy fails to teach:

--the claimed transmitting said electrical data to a central location; and

--the claimed evaluating said electrical data at said central location to make a determination as to the health of the patient.

Patel et al. teaches a heart monitoring system where the patient is provided with multiple lead EKG terminal spreads placed on the body and the signal are collected and transmitted to a remote central location (see: abstract). In addition, Patel et al. teaches once the patient data is received at the central location, the data is evaluated to make a determination of patient condition (see: column 21, lines 25-44).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include transmitting data to a central location to make a determination of the patient's health as taught by Patel et al. within the diagnosis apparatus of Murphy with the motivation of providing early detection and long term monitoring of heart related disorders (see: Patel et al.: column 1, lines 12-14).

As per claim 2, Murphy teaches the claimed electrical data corresponds to ECG data is

met by the ECG sensor array (1, Fig. 1) (see: column 4, lines 41-43).

As per claim 3, Murphy teaches the claimed plurality of electrodes comprises three electrodes is met by the diagnostic apparatus comprising a plurality of medical sensors including a ECG sensor array (1, Fig. 1), which is usually a standard 12 lead array or electrodes (see: column 4, lines 41-45 and column 8, lines 30-32)

As per claim 4, Murphy teaches the claimed said data collection device is a hand-held device and said plurality of electrodes are in predetermined locations on the surface of said hand-held device. This limitation is met by is met by the diagnostic apparatus comprising an ECG sensor array (1, Fig. 1) which is usually a standard 12 lead array or electrodes (see: column 4, lines 41-45 and column 8, lines 30-32). In addition, Murphy teaches that the apparatus is portable housed in container (see: column 2, lines 24-26).

As per claim 5, Patel et al. teaches the claimed step of transmitting evaluation data from said central location to said data collection device to provide feedback to the patient. This feature is met by in response to the step of evaluating the patient's data in the central location sending to the patient information of the patient's condition (see: column 21, lines 45-48).

As per claim 6, Patel et al. teaches the claimed data collection device comprises a display to display information to the patient. This limitation is met by the equipment (40, Fig. 4) on the patient that includes a readable screen or liquid crystal display so the patient can look periodically at the EKG signal (see: column 17, lines 57-66).

As per claim 7, Patel et al. teaches the claimed steps of receiving, at said data collection device, data obtained from a measuring device, and transmitting said received data to the central location. This limitation is met by the patient monitoring system (40, Fig. 1) that incorporates a

set of EKG electrodes used to collect a full set of cardiovascular related signals (see: column 10, lines 63-67). In addition, Patel et al. teaches that the heart monitoring system provides the patient with multiple lead EKG terminal spreads placed on the body and the signal are collected and transmitted to a remote central location (see: abstract).

As per claim 8, Murphy teaches the claimed measuring device is a blood pressure measurement device. This limitation is met by the diagnostic apparatus comprising a plurality of medical sensors including a blood pressure sensor and pulse rate (3, Fig. 1) (see: column 4, lines 41-45)

As per claim 9, Murphy teaches the claimed patient is the user. This limitation is met by the apparatus for use on aircraft for diagnosis of human passengers (hereinafter patient) (see: column 4, lines 30-33).

As per claim 10, Murphy teaches a system for remotely monitoring the health of a patient, said system comprising:

- the claimed remotely located data collection device, the data collection device comprising:

- the claimed instructions directing placement of a plurality of electrodes connected to the data collection device in predetermined locations on the patient's body is met by the automatic display of instructions on how to put on the blood pressure monitor, and the pulse oximeter as well as instructions for attaching the sensors 1 to 4 especially the ECG sensor array to specific locations of the body (see: column 8, lines 21-32).

Murphy fails to teach:

- the claimed circuit to read electrical data from the patient's body using the electrodes

- the claimed receiver to receiving instruction from the central location;
- the claimed central location is met by the signals that are collected and transmitted to a remote central location; and
- the claimed transmitter to transmit said electrical data to the central location, wherein the electrical data is evaluated at the central location to make a determination as to the health of the patient.

Patel et al. teaches a heart monitoring system where the patient is provided with multiple lead EKG terminal spreads placed on the body and the signal are collected and transmitted to a remote central location (see: abstract). In addition, Patel et al. teaches once the patient data is received at the central location, the data is evaluated to make a determination of patient condition (see: column 21, lines 25-44). Furthermore, Patel et al. teaches an anti bias circuit (56, Fig. 4B) that essentially corrects the transmission of data after the electrodes are installed on the patient (see: column 12, lines 9-11).

The obviousness of combining the teachings of Patel et al. within the apparatus as taught by Murphy is discussed in the rejection of claim 1, and incorporated herein.

As per claims 11-17, they are rejected for the same reasons set forth in claims 2-8.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (6,516,289) David teaches a measuring system for measuring physiological parameters comprises a garment in the form of a sleeve, or glove or combination sleeve and glove having a series of sensors.

In related art (6,805,667) Christopherson et al. discloses an information remote monitor (IRM) is implemented to collect medical device data locally in a patient's home for transmission to a remote location.

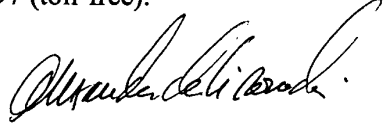
In related art (6,312,378) Bardy shows a system and method for automated collection and analysis of patient information retrieved from a medical device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ALEXANDER KALINOWSKI
PRIMARY EXAMINER